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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,365	11/10/2003	Shigeru Nojima	5576-153	4620
20792	7590	07/13/2006	EXAMINER	
MYERS BIGEL SIBLEY & SAJOVEC PO BOX 37428 RALEIGH, NC 27627			NGUYEN, CAM N	
		ART UNIT	PAPER NUMBER	
		1754		

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/705,365	NOJIMA ET AL.	

Examiner  
Cam N. Nguyen

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1754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 04/24/06 (an amendment/response).
- 2a) This action is **FINAL**.                                   2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 8-11 and 13-18 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 8-11 and 13-18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on originally filed is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### **Response to Amendment**

1. Applicants' amendment and remarks, filed April 24, 2006, has been made of record and entered. Claims 1-7 & 12 have been canceled. Claims 8, 11, & 18 have been amended.

Claims 8-11 & 13-18 are currently pending and under consideration.

### **Claim Objections**

2. Claims 11 & 18 are objected to because of the following informalities:
  - A. In claim 11, line 3, -- , -- is suggested insert after "catalyst".
  - B. In claim 11, line 3, -- , -- is suggested insert after "surface".
  - C. In claim 18, line 5, -- , -- is suggested insert after "surface".

Appropriate correction is required.

### **Claim Rejections - 35 USC § 112 (Second Paragraph)**

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 8-11 & 13-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- A. Regarding claim 8, line 5, the phrase "less than 8 nm or less" is unclear as to what applicants intend. Thus, renders the claim vague and indefinite.
- B. Claim 9 recites the limitation "the resulting powder" in line 2. There is insufficient antecedent basis for this limitation in the claim.
- C. Claim 9 recites the limitation "formed product" in line 2. There is insufficient antecedent basis for this limitation in the claim.
- D. Claim 11 recites the limitation "the surface layer" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.
- E. Claim 18 recites the limitation "the surface layer" in line 3. There is insufficient antecedent basis for this limitation in the claim.

**Response to Applicants' Arguments**

- 5. Applicants' response filed on April 24, 2006 has been fully considered, but not deemed persuasive in view of the new ground of rejection(s) and objection(s) above.

**Conclusion**

- 6. Claims 8-11 & 13-18 are pending. Claims 8-11 & 13-18 are rejected. No claims are allowed.
- 7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner Cam N Nguyen, whose telephone

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number is 571-272-1357. The examiner can normally be reached on M, W, R, & F, 9:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nguyen/cnn *Cam*  
July 07, 2006

*Cam Nguyen*  
CAM N. NGUYEN  
PRIMARY EXAMINER  
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